

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

December 15, 2004
7:00 p.m.

Bellevue City Hall
City Council Conference Room

COMMISSIONERS PRESENT: Chair Lynde, Vice-Chair Bonincontri, Commissioners
Bach, Maggi, Mathews, Orrico

COMMISSIONERS ABSENT: Commissioner Robertson

STAFF PRESENT: Kathleen Burgess, Mary Kate Berens, Heidi Bedwell, Emil
King, Department of Planning and Community
Development

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:04 p.m. by Chair Lynde who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Matthews, who arrived at 7:07 p.m., and Commissioner Robertson, who was excused.

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS

Comprehensive Planning Manager Kathleen Burgess informed the Commission that the Council at its December 6 meeting passed a resolution aimed at continuing work on the policy related to electrical utility planning. She said the issue will be on the Commission's plate during 2005.

Ms. Burgess said the approved city budget includes funding to update the Eastgate Subarea Plan, and some funding to conduct exploratory work on the Eastgate annexation. The Urban Corridor HCT Study was also funded and will be conducted jointly by the Planning Commission and the Transportation Commission. The study will be tied to the Sound Transit Phase II work.

5. PUBLIC COMMENT – None

6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS,
BOARDS AND COMMISSIONS – None

7. PUBLIC HEARING

A. Land Use Code Amendment

– Downtown

Legal Planner Mary Kate Berens said the proposed amendment is the early Downtown implementation piece. A larger effort to overhaul the Downtown Land Use Code will occur in 2005. The amendment is focused primarily on improving the readability and understandability of the code, and on cleaning up some direct conflicts.

Motion to open the public hearing was made by Commissioner Orrico. Second was by Commissioner Bach and the motion carried unanimously.

Ms. Berens provided the Commissioners with copies of an email received on the topic from Schnitzer Northwest.

There was no one present to speak during the public hearing.

Motion to close the public hearing was made by Commissioner Orrico. Second was by Commissioner Bonincontri and the motion carried unanimously.

8. STUDY SESSION

A. Land Use Code Amendment
– Downtown

Motion to forward the Downtown Land Use Code Amendment to the City Council with a recommendation for approval was made by Commissioner Orrico. Second was by Commissioner Bach and the motion carried unanimously.

Ms. Berens said staff hopes to have the amendment before the Council in the latter part of January.

B. Land Use Code Amendment
– Critical Areas

Associate Planner Heidi Bedwell said wetlands occur in a variety of places as a result of several influences. They have a wide range of characteristics that contribute to their functions. In order to be classified as a wetland there must be three things present: water, hydric soils and specific vegetation that can tolerate saturated soils.

Despite all adopted regulations, wetlands are continuing to decline. The characteristics of wetlands can be influenced at both the site scale and from the basin that contributes to the wetland. The functions of wetlands can be grouped into three general categories: biogeochemical functions, hydrologic functions, and food web and habitat functions. Wetlands serve important stormwater attenuation and stream base flow maintenance functions; act as natural filters for water quality; provide biological support and habitat; and serve as recreation, education and cultural resources as well as open space.

Ms. Bedwell said wetland disturbances are quite common in developing urban areas. The most common disturbances are: changes to the physical structure of the wetland by filling, the compacting of soils and/or the removal of vegetation; increasing or decreasing the amount of water; allowing increased sediments in wetlands; increasing the inflow of nutrients; increasing the inflow of toxic contaminants; changing the acidity or alkalinity; increasing the concentration of salts; and decreasing the connections with habitat. Disturbances can also result from altering

soils, constructing roads, noises that disrupt wildlife, recreational access, invasion by exotic species, and access by domestic pets.

A number of management tools are used to protect wetland resources. Rating systems are useful in grouping wetlands based on their needs. The Cowardian system is focused on wetland vegetation. The hydrogeomorphic (HGM) system is focused on wetland functions. The state has adopted the HGM system which is based on the need for protection, rarity and sensitivity, and the ability to replace the functions of wetlands.

Ms. Bedwell said buffers are also tools used to protect wetlands. Their effectiveness depends to some degree on the type of wetland and the functions that need protection. Buffer system guidelines can be prescriptive based on category, or tied to adjacent land uses.

Most regulations are established with a hierarchy that places avoiding impacts at the top of the list, followed by minimizing impacts; rectifying or restoring temporary impacts; reducing or eliminating impacts over time; compensating for losses through replacement; enhancing or providing substitute functions; and monitoring over time.

The implementing principles for the critical areas updating process are predicated on preventing further degradation; protecting the functions and values and mitigating the impacts; developing regulations that are both reasonable and user friendly; including incentives; and balancing the best available science against all identified goals. The proposal includes adoption of the state rating system; modification of the existing buffer widths for wetlands; allowing for buffer averaging; providing for mitigation ratios when wetlands are impacted; and increasing the monitoring time.

With regard to wetland typing, Ms. Bedwell said the city's current approach does not recognize all functions and is unique to Bellevue. In order to provide opportunities for citizens to use a variety of consultants to apply the rating system, it will be necessary to adopt the state approach. The existing Bellevue system is based on the relationship of wetlands to riparian corridors.

Ms. Bedwell allowed that it will be a challenge to determine exactly what a wetland is under the state rating system. No field work has been done to date, and there is no funding in the budget to do it. Mercer Slough, because of its size and habitat values, has the potential to be rated a Category I wetland; it will take field work to confirm that, however.

Commissioner Orrico asked if the state will be moving toward mandating use of their typing system. Ms. Bedwell said the state has had a rating system in place since 1993 and has not required jurisdictions to adopt it. She allowed that in any case no new requirements will be triggered unless there is a change in use for a property.

Commissioner Orrico asked how many properties will be affected if Mercer Slough is ultimately determined to be a Category I wetland. Ms. Bedwell said she did not know the exact number of properties. She shared with the Commissioners a map of the Slough and the surrounding properties that fall within the 100-foot buffer distance, noting that much of the land around the Slough is owned and managed by the Parks Department.

Legal Planner Mary Kate Berens commented that there are challenges to determining how many property owners will be affected by changes to either the current Bellevue system or the state system because not everything is mapped. The inventories that have been done are not necessarily inclusive of all wetlands in the city. When a property owner comes forward with a development proposal, it is necessary even under the current system for them to engage a

wetland biologist to help identify and delineate any wetlands they may have on their property. That approach would still apply under the state typing system. Wetlands of a quarter acre or more fall under federal jurisdiction; any modifications to such areas require a federal permit issued by the Corps of Engineers.

Commissioner Mathews asked if wetlands that are not in existence year round still qualify as wetlands. Ms. Bedwell said areas can be designated wetlands on the basis of the presence of hydric soils and hydrophytic plants. Such areas do not have to be wet all the time.

Commissioner Maggi asked if the city has a wetlands biologist on staff. Ms. Bedwell said the city elects to maintain contracts with consultants instead of having a wetlands biologist on staff.

Ms. Bedwell said the protections offered under the state system will not be less than those offered under the current Bellevue system. Protection is determined primarily by the size of the buffers.

Chair Lynde asked if any analysis was done relative to adopting the Cowardian method. Ms. Bedwell said the approach was not considered because the best available science suggests the importance of recognizing all the functions of wetlands.

Chair Lynde suggested that in general the state system is one that will work well in Bellevue. Because it is focused on functions and values, it will not get used to protect areas that might be wetlands but which have no particular value.

Commissioner Maggi agreed that the city should adopt the state rating system.

Commissioner Bonincontri concurred, though she voiced concern over the gap between what is documented and what is not.

Commissioner Mathews asked how consistency in the measuring of wetlands functions is to be enforced. Ms. Bedwell said the expectation is that the expert hired to conduct the survey will have had training through the state in order to be cognizant of the state rating system, and will also have personal training and experiences that will enable them to properly make the functional assessment.

There was consensus in favor of adopting the state rating system.

Ms. Bedwell explained that the state's model ordinance for critical areas establishes a range of buffer widths for each category of wetland. The buffers are based on best available science and on the original recommendation of King County for urban areas. King County subsequently adopted an ordinance with different buffers than were originally recommended.

Rating	State Model Ordinance	King County	Proposed for Bellevue
Category I	200-300 feet	125-225 feet	100 feet
Category II	100-200 feet	100-200 feet	50 feet
Category III	50-100 feet	75-125 feet	50 feet

Category IV
Category V

35-50 feet

50 feet
0

25 feet
0

Ms. Berens said the state Department of Ecology offered some specific criticisms to the original proposal of King County, particularly the wetland buffers for urban areas. The county, the state and other interested parties, including the Master Builders Association, sat down together and negotiated changes to the proposed ordinance. The ordinance ultimately adopted by the county came out of those negotiations. Presumably, the King County numbers meet with the approval of the state. By electing to use a reduced buffer width in Bellevue, the city may need to argue that the best available science test has been met, or that other conditions in Bellevue justify deviating from BAS. That may require a very specific GIS analysis mapping all wetlands and all development, showing conclusively that there are no areas in which the 200-foot buffer can be met. Bellevue, and likely no jurisdiction, has the ability to map to that level. There is a certain level of complexity associated with the county system given the buffer ranges within each category. That complexity will need to be balanced against the development scenario that exists in Bellevue.

Commissioner Orrico asked what authority the state has to force local jurisdictions to adopt the buffers set forth in the model ordinance. Ms. Berens said the city is free to adopt any buffers it wishes, but a challenge of those buffers could be brought before the Growth Management Hearings Board; such a challenge could be brought by either a private citizen or the Department of Ecology. The Growth Management Hearings Board would then have to review the Growth Management Act and either agree or disagree with Bellevue's position. If the Board disagreed with Bellevue's approach, it could mandate either changing the buffers or providing better justification. If no challenge is brought, the buffers would be presumed valid. Any jurisdiction that elects not to adopt best available science must conduct a risk analysis; to that end Bellevue has contracted with a consultant. An Environmental Impact Statement would identify the risks, if any, associated with taking a different approach. It will take some time to develop a city program alternative; when completed it will be presented to the Commission as one option to consider.

Chair Lynde allowed that while there are some risks involved in taking a different approach, the proposal might not be unreasonable given the development patterns that exist in Bellevue and the other components, such as buffer averaging, the mitigation ratios, and the mitigation monitoring requirements. She added, however, that a mere 100-foot buffer around Mercer Slough would not be sufficient given what is known about the importance of buffers for major wetlands. She said she could accept the proposed approach for Bellevue provided some of the higher point scores within the categories are taken into account.

Commissioner Mathews suggested that the proposed 50-foot buffer for Category II wetlands, which could include Phantom Lake and Larson Lake, would be too small. Development should not be permitted too close to either wetland.

Commissioner Bach argued that the size of the buffers will be relative given that the city is very nearly fully developed. Much of the development is already nonconforming under the current regulations. Ms. Berens said the buffers will kick into play in cases of redevelopment, which would not be permitted to make a use more nonconforming. Under the law even completely constrained sites must be permitted some level of development.

Commissioner Orrico asked if there would be any wisdom in increasing the size of the buffer for the major wetlands categories as a tradeoff for having smaller buffers where the impacts will be less anyway. Ms. Berens said that is the philosophy behind the city's program alternative.

Increasing a buffer does not necessarily equate to improvements to the critical area to be buffered. The city program is aimed at addressing the citywide system and seeks to identify steps the city can take to justify allowing smaller buffers.

Ms. Berens said if the direction of the Commission is to develop an ordinance that meets best available science, staff will work to develop a document that takes a different direction from the one being proposed. Such an ordinance would need to have buffers within the range identified by best available science, or something more akin to the King County approach with a much greater level of complexity based on a case-by-case basis. If the Commission takes the position that Bellevue is a highly developed urban area in which it will be very difficult to meet all the dictates of the best available science, the direction should be to move ahead with what has been proposed.

Commissioner Mathews said he likes the idea of having built-in mitigating factors and flexible buffers. He agreed that the city is developed densely and said he would not argue against having a 100-foot buffer as the starting point. However, there are valuable functions involved with the Category II wetlands that should be protected with a somewhat larger buffer than the proposed 50 feet.

Commissioner Bonincontri indicated support for the city program alternative. It would be better to have flexibility built in. Simply imposing stricter regulations and wider buffers will not necessarily improve conditions. Ms. Berens said the city program alternative will not be in final form until the Draft Environmental Impact Statement is ready.

Commissioner Orrico agreed with Commissioner Bonincontri. She suggested that a 75-foot buffer for a Category II wetland will be hard to sell to landowners in the city. The staff proposal represents a good attempt to find the middle ground between existing conditions and best available science.

Chair Lynde said there could be some benefit to mandating low-impact development in exchange for smaller buffers. Whatever approach is chosen should be consistent. The proposed buffer sizes for Category I and Category II should be increased based on their habitat and function scores.

There was no clear consensus with regard to what the numbers should be. Staff was directed to return with more information on exactly what the potential impacts of the proposal could be, and more about the habitat and functions rating system.

Turning to the concept of buffer averaging, Ms. Bedwell said the underlying principle is one of no net loss of buffer area. Under the proposal, buffer widths could be reduced to 75 percent of the standard buffer width provided there is additional area set aside elsewhere. To go beyond that limit would require a critical areas evaluation.

There was consensus to move ahead with buffer averaging.

Ms. Bedwell proposed mitigation ratios at the following rates:

Category	Ratio
Category I	6:1
Category II	3:1
Category III	2:1
Category IV	1.5:1

Ms. Bedwell explained that mitigation ratios in excess of 1:1 serve as disincentives. They also address the temporal loss that results from replacing mature vegetation with immature vegetation, and compensate for the risk of failure.

Noting that the current mitigation ratio is 2:1, Commissioner Bonincontri suggested that a 6:1 ratio would be difficult to sell. Ms. Bedwell said the rating system is based on the ability to replace systems. Category I functions are the most rare and therefore the most difficult to successfully replace. Ms. Berens allowed that Category I mitigations would be a very rare occurrence.

There was consensus in favor of the proposed mitigation ratios.

Ms. Bedwell said the suggestion of staff with regard to monitoring is to extend the current three-year monitoring period to a five-year monitoring period, with opportunity for both reductions and extensions of the time period depending on the level of success and how well the goals have been met.

Commissioner Orrico asked how much staff time is involved in the ongoing monitoring. Ms. Bedwell said staff does not visit sites regularly unless it seems there is an ongoing problem. Staff time is expended when there are enforcement issues involved, and that does not occur often. Moving from three years to five years will not overly impact staff, especially if a better tracking system is implemented.

Commissioner Maggi asked how the transfer of properties affects the monitoring of mitigation efforts. Ms. Bedwell said performance bonds are required and are held until the end of the monitoring period.

There was consensus in favor of moving to establish a five-year monitoring period.

Ms. Berens reported that the city's critical areas web page has been substantially updated. It includes a project schedule and summary information for each type of critical area.

C. Downtown Charrette

Senior Planner Emil King said the purpose of the Downtown design charrette that was held in late September was to build on the "great place strategy" of the Downtown Implementation Plan. Over 50 local design professionals were involved in the two-day event, at the end of which each participant indicated support for the process. The Commissioners were shown a short video of the charrette and were told that the six hours of video shot at the event will be edited into a series of four pieces to help stir public involvement.

Three days prior to the charrette an orientation was held at Bellevue Art Museum. The keynote speaker for the charrette was Fred Kent with Project for Public Spaces in New York. He spoke about the need to create people places with activities and events that will draw people to our Downtown.

The charrette participants were challenged to develop ideas to differentiate the Downtown into a series of distinct neighborhoods by creating great people places that taken together will form a strong image and identity. It was noted from the start that some of the ideas generated may not be feasible for financial, political or land ownership reasons. A detailed process with the public and stakeholders will help decide which concepts have merit. All the drawings that were

produced at the charrette have been posted to the web.

Mr. King said there were a number of important “givens” for the participants. He said there was no intent to rethink the transportation framework established by the Downtown Implementation Plan. The general allowed zoning envelope was also a given. Some teams made attempts to push the limits as far as possible, but that was not unexpected. One city staff person assisted each team as a resource.

The participants were divided into six teams, each of which was assigned a third of Downtown. Names for each Downtown neighborhood were suggested by the teams, and each team developed concepts and drawings for the districts they were focused on. The common themes were placemaking at the neighborhood, street and individual feature levels; opportunities for branding to create a powerful and memorable identity; green streets; extending the character of parks; coordinated open spaces, both public and private; adding life to the streets; creating pedestrian walkways through the superblocks; and residential uses as a key to urban vitality.

A number of teams offered suggestions for how to enhance Downtown Park. One idea was to provide a better connection between the northern side of the park and the southern side of Bellevue Square with a pedestrian bridge. It was also pointed out that the park does not have much of a presence on Bellevue Way. Most thought finishing the canal would be the wrong direction to take; the better approach would be to create an active, flexible space for a farmer’s market or other types of activities.

Mr. King shared with the Commissioners several of the design sketches. He said the next steps will be to create a “sketch book” with all of the design concepts, and to edit the video presentation. The information will be shared with the public at large and stakeholders such as the Bellevue Downtown Association. The ideas will be brought before the Commission for review and recommendation.

9. OLD BUSINESS

Ms. Burgess reviewed the calendar with the Commission.

10. APPROVAL OF MINUTES

A. September 16, 2004

Motion to approve the minutes as submitted was made by Commissioner Bonincontri. Second was by Commissioner Mathews and the motion carried unanimously.

11. NEW BUSINESS

Commissioner Bach called attention to the fact that notice of the Planning Commission meetings is not appearing in the *King County Journal*. He proposed that it would be helpful to also print a brief description of what topics are to be covered at each meeting.

12. PUBLIC COMMENT – None

13. ADJOURNMENT

Chair Lynde adjourned the meeting at 9:47 p.m.

Staff to the Planning Commission

Date

Chair of the Planning Commission

Date